



Debevoise & Plimpton LLP
66 Hudson Boulevard
New York, NY 10001
+1 212 909 6000

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BY EMAIL AND ECF

The Honorable Analisa Torres
United States District Judge
United States Courthouse
500 Pearl Street
New York, New York 10007
Torres_NYSDChambers@nysd.uscourts.gov

Re: Proskauer Rose LLP v. O'Brien, 1:22-cv-10918-AT (S.D.N.Y.)

Dear Judge Torres:

We represent Plaintiff Proskauer Rose LLP (“Proskauer”) in the above-referenced action. We write in accordance with Section III.B.iv of Your Honor’s Individual Practices in Civil Cases concerning Defendant Jonathan O’Brien’s March 14, 2023 partial motion to dismiss [ECF No. 77].


While Proskauer does not believe that its pleadings are deficient, Proskauer plans, for reasons having nothing to do with Mr. O’Brien’s pending motion to dismiss one count of the Complaint, to seek leave to amend its Complaint within 30 days of the entry of the Case Management Plan and Scheduling Order (the “CMO”), which the parties are planning to submit to the Court on or before the March 31 deadline [See ECF No. 65]. Proskauer’s amended pleading may include additional facts and allegations which could bear on the pending motion to dismiss.

In our view, and particularly given that an amended pleading would supersede the current Complaint to which the pending motion is addressed, it is in the interest of both parties and judicial efficiency for Mr. O’Brien to review Proskauer’s proposed amended Complaint before proceeding further with his pending motion. We informed Mr. O’Brien’s counsel on March 21 that Proskauer intends to seek leave to amend its Complaint within the period set forth in the CMO, but counsel declined to voluntarily postpone Mr. O’Brien’s motion.

By **April 4, 2023**, Plaintiff shall file its amended complaint. By **April 18, 2023**, Defendant shall advise the Court whether he intends to file a new motion to dismiss or rely on his current motion.

SO ORDERED.

Dated: March 27, 2023
New York, New York



ANALISA TORRES
United States District Judge